

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

COALITION FOR WORKFORCE
INNOVATION, *et al.*,

Plaintiffs,

v.

JULIE A. SU, *et al.*,

Defendants.

Case No. 21-CV-00130-MAC

**UNOPPOSED MOTION BY *AMICI CURIAE*
AMERICAN HOTEL & LODGING ASSOCIATION;
ASSOCIATED GENERAL CONTRACTORS OF AMERICA, INC.;
SMALL BUSINESS AND ENTREPRENEURSHIP COUNCIL;
ASSOCIATION OF BI-STATE MOTOR CARRIERS, INC.;
AMERICAN BAKERS ASSOCIATION;
INDEPENDENT ELECTRICAL CONTRACTORS;
NATIONAL ASSOCIATION OF CONVENIENCE STORES; AND
NATIONAL ASSOCIATION OF REALTORS®
FOR LEAVE TO FILE BRIEF IN SUPPORT OF
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

PAUL DECAMP
(*pro hac vice motion forthcoming*)
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UNOPPOSED MOTION

Amici curiae American Hotel & Lodging Association, the Associated General Contractors of America, Inc., the Small Business and Entrepreneurship Council, the Association of Bi-State Motor Carriers, Inc., the American Bakers Association, Independent Electrical Contractors, the National Association of Convenience Stores and the National Association of REALTORS® hereby submit this unopposed motion for leave to file a brief in support of Plaintiffs’ motion for summary judgment, Dkt. 52.

“The extent to which the court permits or denies *amicus* briefing lies solely within the court’s discretion.” *U.S. ex rel. Gudur v. Deloitte Consulting LLP*, 512 F. Supp. 2d 920, 927 (S.D. Tex. 2007), *aff’d sub nom. U.S. ex rel. Gudur v. Deloitte & Touche*, No. 07-20414, 2008 WL 3244000 (5th Cir. Aug. 7, 2008). Because “[n]o statute, rule, or controlling case defines a federal district court’s power to grant or deny leave to file an *amicus* brief . . . district courts commonly refer to Rule 29 [of the Federal Rules of Appellate Procedure] for guidance.” *Id.* See also *Wilson v. Austin*, No. 4:22-CV-438, 2023 WL 5674114, at *7 (E.D. Tex. 2023) (noting grant of leave to file *amicus* brief).

Under Rule 29, private parties “may file a brief only by leave of court *or if the brief states that all parties have consented to its filing[.]*” Fed. R. App. P. 29(a)(2) (emphasis added). Counsel for the Plaintiffs have stated in e-mail that they consent to *amici* filing the proposed brief. Counsel for the Defendants have stated in e-mail that they do not oppose *amici* filing the proposed brief.

Amici respectfully submit that the proposed brief will be helpful to the Court in resolving the pending motion for at least two reasons. First, these *amici* represent industries where independent contractors are prevalent, making their perspectives on and experiences with these issues germane to the legal analysis. Second, the principal author of the brief previously ran the U.S. Department of Labor's Wage and Hour Division and thus is able to provide insights into the Department's history and process for issuing guidance documents. Moreover, the proposed brief will not cause any delay in the proceedings, nor will it prejudice any party, as confirmed by all parties' consent or non-opposition to the filing.

CONCLUSION

For these reasons, *amici curiae* ask the Court to grant leave to file a brief in support of Plaintiffs' motion for summary judgment.

Respectfully submitted,

/s/ Greta Ravitsky

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Counsel for Amici Curiae

April 26, 2024

CERTIFICATE OF SERVICE

I hereby certify that on this date, the foregoing document was electronically filed in this matter with the Clerk of Court, using the ECF system, which sent notification of such filing to all counsel of record.

/s/ Greta Ravitsky
Greta Ravitsky

April 26, 2024

CERTIFICATE OF CONFERENCE

Pursuant to Local Rule CV-7(i), I hereby certify that counsel for *amici curiae* complied with the meet and confer requirement of Local Rule CV-7(h) by consulting (via e-mail) with counsel for all parties to ascertain their position with respect to this motion. Counsel for the Plaintiffs stated that “Plaintiffs consent” to the filing of the proposed brief by *amici curiae*. Counsel for the Defendants stated: “We do not oppose your filing an amicus brief.” Thus, this motion is unopposed.

/s/ Greta Ravitsky
Greta Ravitsky

April 26, 2024